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UNITED STATES DISTRICT COURT FOR
THE CENTRAL DISTRICT OF CALIFORNIA

Dan Xiu,

Plaintiff,

VS.

KRISTI NOEM, SECRETARY OF UNITED STATES DEPARTMENT OF HOMELAND SECURITY; KIKA SCOTT, DIRECTOR OF U.S. CITIZENSHIP AND IMMIGRATION SERVICES; ROSEMARY LANGLEY MELVILLE, CALIFORNIA SERVICE CENTER DIRECTOR; UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES; AND UNITED STATES DEPARTMENT OF HOMELAND SECURITY,

Defendant(s)

Case No.: 2:25-cv-2803

COMPLAINT FOR INJUNCTIVE AND MANDAMUS RELIEF

INTRODUCTION

1.) Plaintiff Dan Xiu, brings this action to compel defendants to complete the adjudication of her I-589, Application for Asylum, Withholding of Removal, and Convention Against

1 Torture, which has been pending before the United States Citizenship and Immigration
2 Services since March 19, 2020.

3 2.) Ms. Xiu is prejudiced by the undue delay in the processing of her application.

4 **PARTIES**

5 3.) Plaintiff Dan Xiu is a citizen of China and currently reside in Los Angeles, California.

6 4.) Defendant Kristi Noem is the Secretary of the United States Department of Homeland
7 Security (DHS) and is sued in his official capacity only. Defendant Huffman is charged
8 with the administration of the United States Citizenship and Immigration Services and
9 implementing the Immigration and Nationality Act.

10 5.) Defendant Kika Scott is the Director of United States Citizenship and Immigration
11 Services (USCIS) and is sued in her official capacity only. USCIS is the component of
12 the Department of Homeland Security that is responsible for adjudicating Plaintiff's I-
13 589 application.

14 6.) Defendant Rosemary Langley Melville is the Field Office Director of the California
15 Service Center of USCIS and is sued in her official capacity only. The California Service
16 Center is charged with the administration of the Immigration and Nationality Act and the
17 adjudication of petitions filed by people living in the California area.

18 7.) Defendant Department of Homeland Security is the department within which USCIS
19 adjudicates asylum applications.

20 8.) Defendant Citizenship and Immigration Services is the component of DHS that
21 adjudicates asylum applications.

22 **JURISDICTION AND VENUE**

23 9.) Jurisdiction of the Court is predicated upon 28 USC §§1331 and 1346(a)(2) in that the
24 matter in controversy arises under the Constitution and laws of the United States, and the
25 United States is a Defendant. This Court also has jurisdiction over the present action
26 pursuant to 28 USC §2201, the Declaratory Judgment Act; 5 USC §702, 5 U.S.C. §§

1 706(1) of the Administrative Procedures Act; and 28 USC §1361, regarding an action to
2 compel an officer of the United States to perform his or her duty.

3 10. Venue is proper in this District under 28 USC §1391(e), because a substantial part of the
4 events and omissions giving rise to the claim occurred in this district.

5 **FACTS AND BACKGROUND**

6 11. Plaintiff Dan Xiu is a Citizen and National of China residing in Los Angeles, California.

7 12. On or about March 19, 2020, Dan Xiu (A216873102), filed an application for asylum,
8 withholding of removal, and Convention against torture (I589) with USCIS. (Receipt
9 Number ZLA2044512040).

10 13. Based on Plaintiff's current residence, the Los Angeles Asylum Office is in charge of
11 adjudicating plaintiff's asylum application.

12 14. As of April 1, 2025, USCIS has not taken any action regarding the adjudication of
13 plaintiff's asylum application.

14 15. Upon information and belief, between March 19, 2020 and April 1, 2025, USCIS has
15 adjudicated tens of thousands asylum applications, filed both before and after Plaintiff's
16 asylum application.

17 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

18 16. No exhaustion requirements apply to the Plaintiff's complaint for a Writ of Mandamus.
19 Plaintiff is owed a duty- the adjudication of her properly filed asylum application, which
20 has been duly filed with USCIS. Defendants have unreasonable delayed and failed to
21 adjudicate the Plaintiff's application for more than 5 years. Plaintiff has no other
22 adequate remedy available for the harm he seeks to redress- the failure of USCIS to
23 process her application in a timely manner.

24 **FIRST CAUSE OF ACTION**

25 **MANDAMUS RELIEF**

1 17. Plaintiff is entitled to seek asylum relief under 8 U.S.C Code § 1158. Specifically, 8
2 U.S.C. § 1158(d)(5) provides in part that, “ in the absence of exceptional circumstances,
3 the initial interview or hearing on the asylum application shall commence not later than
4 45 days after the date an application is filed.

5 18. The Defendants have unreasonably delayed and refused to adjudicate Plaintiff’s
6 application for more than 5 years, thereby depriving Plaintiff of his right to a decision on
7 her immigration status and the peace of mind to which she is entitled.

8 19. As a direct result of USCIS’s delay, plaintiff’s employment opportunity was diminished,
9 because lack permanent resident status, for which asylee status is a prerequisite, makes
10 her less appealing to prospective employers and also prevents her from obtaining security
11 clearances required for certain positions.

12 20. Defendants inaction in Plaintiff’s case has caused inordinate and unfair amount of stress,
13 expense, and hassle for the Plaintiff, who is entitled to a decision on the merits of her
14 application without further unreasonable delay.

15 **SECOND CAUSE OF ACTION**

16 **VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT**

17 21. The administrative Procedure Act provides, in part, that a “reviewing court shall compel
18 agency action unlawfully withheld or unreasonably delayed.” 5 U.S.C. § 706(1).

19 22. Defendant’s delay in processing Plaintiff’s asylum application is unreasonable given that
20 the defendants had over 5 years to schedule an asylum interview for plaintiff and render a
21 decision. In the interim, defendants adjudicated tens of thousands of other asylum
22 applications, filed both before and after Plaintiff’s application.

23 **PRAYER FOR RELIEF**


24 WHEREFORE, Plaintiff prays that this Court:

25 1.) Compel the Defendants and those acting under them to take all appropriate action to
26 adjudicate Plaintiff’s asylum application within a reasonable period of time.

1 2.) Grant such other and further relief as this Court deems proper.

2 Respectfully Submitted.

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4 Dated this [1 day of April, 2025]

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8 Zhenxiong Fan
9 Counsel for Plaintiff
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